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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOS/169922

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 04, 2015, under Wis. Stat. § 48.64(4), and Wis. Admin. Code § DCF 56.10(1), to review a decision by the Brown County Human Services in regard to Foster Care, a hearing was held on January 12, 2016, at Green Bay, Wisconsin.

The issue for determination is whether the agency correctly revoked the petitioners' foster care license.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

Department of Children and Families  
201 East Washington Avenue, Room G200  
Madison, Wisconsin 53703

By: [REDACTED], Foster Care Worker  
Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioners are residents of Brown County. Prior to October 26, 2015 the petitioners, [REDACTED] and [REDACTED], were a licensed foster home.
2. On August 15, 2015 [REDACTED] contacted the agency, and asked if they would approve a sex offender staying in a camper in her backyard. She informed the County that the sex offender's probation

agent was aware of it, and would approve it. The petitioners have children that they adopted. This sex offender is the biological father of those adopted children.

3. The worker told [REDACTED] that the sex offender could not stay on her property, and that if she allowed this she would be jeopardizing her foster care license.
4. On October 13, 2015 a foster care home planner from the Department of Children and Families received an e-mail stating that the petitioners' address appeared on the sex offender registry. The worker verified the petitioners were still foster parents, and that their current address was listed on the sex offender registry. On October 23, 2015 this worker forwarded this information to Brown County.
5. On October 23, 2015 a Brown County social worker went to the petitioners' home. Nobody was home. The worker called [REDACTED], and asked if this sex offender was staying with her. [REDACTED] said that the sex offender needed an address, and that they let him use their address. She went on to say that she did not what street this sex offender sleeps on.
6. The petitioners had two foster children in their care. One child was a two year whom they had since birth. They were in the process of adopting this child. The other foster child was a 15 year old girl. The 15 year old girl had a baby. The baby was placed in the petitioners' home.
7. The victim of this sex offender's sexual assault was a 15 year old girl. At the time of the assault the sex offender was 29 years old. He was convicted of second degree sexual assault of a child after a jury trial.
8. The County confirmed with the sex offender's probation agent that the sex offender had been staying on the petitioners' property since on or about August 21, 2015. The sex offenders' probation officer confirmed this through home visits and GPS monitoring.
9. The village where the petitioners live has an ordinance, which makes it a violation for sex offenders to live in that village. It is the Department of Correction's policy that they cannot approve an offender committing an ordinance violation. For that reason, if the sex offender is "staying" in a village with such an ordinance, the sex offender is listed as homeless. The Department monitors through GPS that the offender is "staying" in the noted home in the community where it is an ordinance violation for the sex offender to live. They then require the sex offender to leave that location, and stay somewhere else at least one night per week. It is the Department's position that this does not violate the village ordinance because for one night per week the offender is not staying there. Nonetheless, the agent conducts home visits at the noted place where the offender stays six out of the seven nights per week. The offender also keeps his personal items and property at that location. This was the arrangement with the petitioners' home from August 21, 2015 until late September or October when the sex offender registry was updated to reflect their address.
10. The petitioners' residence is a typical suburban community. Their lot is an acre or less. They had a camper parked on their lot. The petitioner stayed in the camper during the day. At night he stayed on the couch in their family room.
11. The County made the decision to revoke the petitioners' foster care license on Friday, October 23, 2015. They removed the foster children from the petitioners' home that same day. On Monday, October 26, 2015, the agency sent the petitioners a notice stating that their foster care license had been revoked.
12. On November 4, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

## DISCUSSION

The petitioners appeal both the removal of the children and the revocation of their foster license. The hearings on both cases were held together. This decision addresses the revocation issue. A separate decision under 169923 addresses the removal issue.

The Wisconsin Administrative Code, Chapter DCF 56, sets out the duties of a foster parent. The licensee must be familiar with the Wisconsin Administrative Code, Chapter DCF 56, and must comply with its requirements. Wis. Adm. Code, §DCF 56.05(1)(c). Violation of administrative provisions may be grounds for revoking the foster home license. Wis. Stat., §48.715(4)(d).

Foster parent requirements relevant to this appeal are as follows:

### DCF 56.05 Licensee Qualifications. (1) Personal Requirements and Background

- (a) *General.* 1. A person licensed to operate a foster home shall be a responsible, mature individual who is fit and qualified, who does not abuse alcohol or drugs or have a history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children or operating a foster home, as described in ch. DHS 12, and who exercises sound judgment and displays the capacity to successfully nurture foster children.
- 2. The applicant or licensee shall give truthful and sufficient information to enable the licensing agency to verify whether or not he or she meets the requirements of subd. 1. Giving false information or withholding relevant information shall constitute grounds for denial of revocation of the license....
- (b) *Characteristics.* As evidenced through interviews with foster family members, the use of formalized assessment systems, communication with references and other mechanisms considered to be effective components of a comprehensive foster home study, a licensee shall have or exhibit all of the following characteristics to a degree that will allow the licensee to adequately provide foster care services:
  - 1. An adequate understanding of what it means to be a foster child and a recognition of a child's strengths and weaknesses consistent with the child's age and abilities, or a motivation to learn.
  - 2. A history of managing or an indication of the ability to manage stress related to economic resources, employment, home, neighborhood, family size or health problems, and an indication of an ability to cope with an additional stress factor of a foster placement....
  - 5. An outlook regarding his or her own history that indicates any negative aspects have been recognized and adequately addressed....
  - 10. Effective intrafamilial communication and the existence of appropriate family roles, marital and other relationship stability, integration into the community and organization in the home.

The need to report changes was especially important in this case. The petitioners sought to have a sex offender live in her home. [REDACTED] initially sought the agency's approval for this sex offender to stay with them on August 15, 2015. The County worker was concerned that [REDACTED] would even request this, and explained to her that a sex offender could not stay in her home. The worker went on to explain that she would be risking her foster care license if she were to allow this sex offender to stay in her home. On August 21, 2015 the petitioners' allowed this sex offender to "stay" with them five to six days and nights per week. The petitioners never informed the sex offender's probation agent that they are a licensed

foster care home. They also never informed Brown County or [REDACTED] that they were allowing a sex offender to stay with them.

The petitioners argue that this sex offender is not the monster that everyone is making him out to be, and even if he was, they had a safety plan to protect all of the children in their care. Their safety plan was to have him stay in the camper during the day and at night to sleep in the family room while [REDACTED] stayed up all night monitoring him. When one is a foster parent, these are not decisions that one gets to make. The agency is responsible for foster children's welfare. The agency must be informed of all of the information in order to make informed decisions. The petitioners wanted to do what they wanted to do. They saw this sex offender as someone who was in need of a place to live. They mistakenly believed that their foster children were not at risk, and despite being told that they would be risking their foster care license, they allowed this sex offender to live in their home.

Another concerning factor is that the petitioners knew this sex offender had been convicted of sexually assaulting a 15 year old girl. Knowing this they allowed the agency to place a vulnerable 15 year old foster child and her baby in their care. This 15 year old was placed in the petitioners' home after the sex offender had moved in, and after the petitioners knew the specifics about his sexual assault conviction. I understand that the agency was having a difficult time placing this foster child, but given the information that the petitioners had, there is no way that their home was safe for this foster child and her baby.

The petitioners argue that no sex offender was ever residing at their address, that they did not need to report that the sex offender was "staying" with them, that they have been fully cooperative and honest with the County, and that they have exercised sound judgment. I fail to see any distinction between "living," "staying," and "residing." GPS monitoring shows that the majority of days and nights from August 21, 2015 to October 23, 2015 this sex offender was at their home or in their yard. The probation agent conducted several home visits to the camper in the petitioners' backyard. The fact that [REDACTED] mentioned the possibility of this sex offender moving into the camper less than a week before he began staying with them shows that she knew this was important information to disclose. She knew that the agency would never allow it, and instead of disclosing to the agency, she failed to report that he was staying there. She also failed to report to the sex offenders' probation agent that she was a licensed foster home. I do not view this as sound judgment or being fully cooperative with the agency. Rather, the petitioners made very poor decisions that put foster children at risk.

I am sympathetic to the petitioners' point that their two year old foster child had been with them since birth. They were the family that took her home from the hospital. This makes their decision to risk their foster care license all the more tragic. Their further decision not to tell the agency what they were doing is also tragic. The decision not to tell the probation agent that they were a licensed foster care is again tragic. A two year child has now been removed from the only home she has ever known. Unfortunately, given the petitioners' series of very poor decisions, this is the correct decision. Although no foster child was abused or neglected while in the petitioners' care, their poor decisions, and disregard for the agency's directions, makes placement of foster children in their care impossible.

### **CONCLUSIONS OF LAW**

The agency correctly revoked the petitioners' foster care license.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## **APPEAL TO COURT**

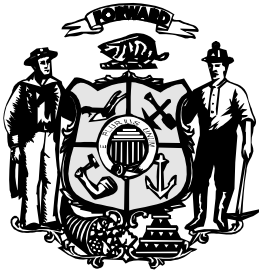
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 18th day of March, 2016

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 18, 2016.

Brown County Human Services  
DCF - Foster Care  
Attorney [REDACTED]